

Assembly Bill No. 1397

Passed the Assembly August 26, 1998

Chief Clerk of the Assembly

Passed the Senate August 24, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER ____

An act to add Section 1256.2 to the Health and Safety Code, and to add Section 14132.42 to the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, Gallegos. Public health: Medi-Cal: maternity benefits and services: county patients.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services. Existing law also authorizes the board of supervisors in each county to establish and maintain a county hospital, and to enter into various contracts for the provision of medical services.

This bill would prohibit a county, or contractor or subcontractor thereof, including a health plan that provides or contracts to provide Medi-Cal services, from interfering with the medical judgment of a health care professional acting within the scope of his or her practice, but would not prohibit a county, contractor, subcontractor, or health plan from adopting protocols or guidelines consistent with accepted medical practice, provided that the guidelines do not supersede the judgment of a health care provider when treating a particular patient.

This bill would provide that benefits under the Medi-Cal program shall not be restricted for inpatient hospital care to a time period less than 48 hours following a normal vaginal delivery and less than 96 hours following delivery by caesarean section, except where certain conditions are met.

This bill would, in accordance with specified findings and declarations, prohibit a general acute care hospital from promulgating policies determining differing standards of obstetrical care based upon a patient's source of payment or ability to pay for medical services. It would declare that to deny or threaten to withhold pain



management services from a woman in active labor, based on the patient's source of payment or ability to pay, shall constitute unprofessional conduct.

Existing law makes it a crime to intentionally violate provisions regulating the licensing of certain health care providers.

This bill would revise the definition of a crime by revising the duties of licensed providers, thereby resulting in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that it is unethical for a health care provider to deny pain management assistance, or to threaten to withhold treatment, based upon a patient's source of payment, or ability to pay for medical services.

SEC. 2. Section 1256.2 is added to the Health and Safety Code, to read:

1256.2. (a) (1) No general acute care hospital may promulgate policies or implement practices that determine differing standards of obstetrical care based upon a patient's source of payment or ability to pay for medical services.

(2) Each hospital holding an obstetrical services permit shall provide the licensing and certification division of the department with a written policy statement reflecting paragraph (1) and shall post written notices of this policy in the obstetrical admitting areas of the hospital by July 1, 1999. Notices posted pursuant to this



section shall be posted in the predominant language or languages spoken in the hospital's service area.

(b) It shall constitute unprofessional conduct within the meaning of the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, for a physician or surgeon to deny, or threaten to withhold pain management services from a woman in active labor, based upon that patient's source of payment, or ability to pay for medical services.

SEC. 3. It is the intent of the Legislature in enacting Section 3 of this act that the protections under the Newborns' and Mothers' Health Act of 1997 (Chapter 389 of the Statutes of 1997), which added Section 1367.62 to the Health and Safety Code and Section 10123.87 to the Insurance Code, shall apply equally to all pregnant women eligible for benefits under Medi-Cal.

SEC. 4. Section 14132.42 is added to the Welfare and Institutions Code, to read:

14132.42. Benefits under this chapter shall not be restricted for inpatient hospital care to a time period less than 48 hours following a normal vaginal delivery and less than 96 hours following delivery by caesarean section. However, coverage for inpatient hospital care may be for a time period less than 48 or 96 hours following a delivery if both of the following conditions are met:

(a) The decision to discharge the mother and newborn before the 48- or 96-hour time period is made by the treating physicians in consultation with the mother.

(b) A postdischarge followup visit for the mother and newborn within 48 hours of discharge, when prescribed by the treating physician, is also a covered benefit under this chapter. The visit shall be by a licensed health care provider whose scope of practice includes postpartum care and newborn care. The visit shall include, at a minimum, parent education, assistance and training in breast or bottle feeding, and the performance of any necessary maternal or neonatal physical assessments. The treating physician shall disclose to the mother the availability of a postdischarge visit, including an in-home



visit, physician office visit, or plan facility visit. The treating physician, in consultation with the mother, shall determine whether the postdischarge visit shall occur at home, the plan's facility, or the treating physician's office after assessment of certain factors. These factors shall include, but not be limited to, the transportation needs of the family and environmental and social risks.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Approved _____, 1998

Governor

